BOARD OF SELECTMEN MEETING MINUTES THURSDAY, JUNE 9, 2005 ABLONDI ROOM

Attendance: Katherine E. Murphy, Chair; John H. Stasik, Vice-Chair; A. Ginger Esty, Member; Dennis L. Giombetti, Member

Staff: George P. King, Jr., Town Manager; Mark J. Purple, Assistant Town Manager; Christopher J. Petrini, Town Counsel; Matthew A. Romero, Executive Assistant

Mr. Petrini presented the Board with an update with regard to the Cochituate Rail Trail, which included two licenses entered into with the Massachusetts Bay Transit Authority (MBTA). Mr. Petrini informed the Board that the licenses would mature into full leases with the MBTA. Mr. Petrini expressed concern over the Town's responsibility for the environmental problems when the licenses matured. However, since the Board had been supportive of rail trails in the past, they could gauge factors other than strictly legal analysis. The decision to adopt or not would be a policy decision of the Board.

Mr. Petrini drew the Board's attention to the background material, including a cover memo and various exhibits outlining the conversations that had taken place throughout the negotiating process, and a listing of the changes to the original lease.

Mr. Giombetti questioned if subsequent legislation would affect the lease, or if it would be grandfathered, and Mr. Petrini responded that he was unsure. Mr. Petrini said he would provide the Board with a copy of the proposed legislation for the Board to take up as an action item.

Mr. Petrini explained that it was bad legal practice to take on environmental liability for an innocuous public purpose. However, it was a relatively small section of land, so the risk was not great. Mr. Petrini suggested having Mr. Purple look into the insurance aspect to bring before the Board as an action item, which would address the legal concerns. Mr. Petrini's understanding was that no lease had been entered into with the MBTA at this time, and the negotiation of the lease could be difficult. Ms. Murphy's sense was that the option was to sign the agreement or not. Mr. Mark Lamkin, of the Cochituate Rail Trail Committee, informed the Board that any construction during the period covered by the license (one year) would be limited. If the Board did not accept this risk, the Cochituate Rail Trail as a project would stall.

MOVED: To ask Town Counsel to obtain signature copies of the license to take the next steps necessary to move forward with the project.

Motion: Mr. Stasik Second: Ms. Esty

VOTE: 4-0

Mr. Petrini warned the Board that the negotiation of the lease had the potential to be very time consuming, and asked that the lease negotiation not be taken from the Town Counsel budget. Ms. Kathy Bartolini, Director of Planning and Economic Development, agreed that her department would undertake the legwork on the lease. Ms. Esty suggested having any additional questions the Cochituate Rail Trail Committee might

have submitted through the Board. Mr. Petrini noted that having standard forms for contracts would help to minimize the amount of time needed to finalize the contract, and suggested that Mr. Lamkin work with Mr. Purple when developing any contracts.

Ms. Murphy also asked that Town Counsel keep the Board informed on upcoming legislation. Mr. Lamkin clarified for the Board that the Cochituate Rail Trail Committee was an ad-hoc committee of the Board, and might in the future ask to become a formal committee.

Hazard Mitigation Plan

Ms. Esty asked if Ms. Lynch was going to be present, and Ms. Bartolini informed the Board that Ms. Lynch had already agreed with the document as it was being submitted. Mr. Bryan Taberner gave the Board a background on the matter, noting that FEMA had reviewed and approved the plan, but would require the formal vote of the Board. Ms. Esty commented that she believed it would be a living document that would be updated. Ms. Esty moved to endorse the Hazard Mitigation Plan, and Mr. Giombetti seconded for discussion. Mr. Giombetti felt it was important that someone be assigned the task of updating the document as time progressed, and Mr. Taberner informed them that provisions for update were included in the plan. Ms. Esty expressed concern that Rizzo Associates had worked on the plan, since they had conducted faulty analysis on past projects for the Town. Ms. Murphy suggested hearing an update on drainage from the DPW Superintendent.

MOVED: To endorse the Hazard Mitigation Plan.

Motion: Mr. Giombetti Second: Ms. Esty

VOTE: 4-0

Conference

Ms. Norma Shulman explained she was a volunteer at the public access station, and she brought to the Board's attention a matter regarding the public access station. Comcast was expressing concern over safety issues and was rearranging the studio, and Ms. Shulman felt it was a serious change of the access for the public. Ms. Murphy stated that it was disconcerting since the conditions of the existing license were supposed to remain in effect while the license was being negotiated. Ms. Murphy suggested sending a letter to all of the appropriate people to address the matter. Ms. Esty suggested contacting Mr. Epstein, and Mr. Purple asked Ms. Shulman to send him an e-mail listing the changes.

MOVED: To adjourn at 7:50 PM.

Motion: Mr. Stasik Second: Ms. Murphy

VOTE: 4-0

Respectfully submitted,

Charles J. Sisitsky, Clerk